IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10355 of 1996

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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RAMESHBHAI L JOSHI

Versus

GUJARAT HOUSING BOARD

Appearance:

MR IS SUPEHIA for Petitioner

MRS KETTY A MEHTA for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 23/08/2002

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties.

2. The petitioner has challenged in the present petition the order passed by the respondent Board, which is at Annexure-B to the petition. In substance the petitioner has been intimated that on the given date, when he attains the age of 50 years, he shall be compulsorily retired. This order is based on certain facts which are not in dispute viz. that at the relevant point of time the petitioner was charged with corruption. It is also not in dispute that thereafter the petitioner

was acquitted of the charges by the competent criminal court, and that the acquittal has also been confirmed by the High Court. In this context Mrs. Mehta for the respondent Board fairly conceded that the order at Anexure-B to the petition, which is the only subject matter of challenge in the present petition, cannot be sustained.

3. However, Mrs. Mehta makes a specific reference to paragraph 3 of the affidavit-in-reply filed in the petition whereby assertions have been made to the effect that the respondent Board has adopted the relevant provisions of the Bombay Civil Services Rules, that they are applicable to all employees of the Housing Board, and that it was and is open to the Board to look into the petitioner's record and service, to examine his utility as an employee to the Board and also his integrity, for the purpose of considering whether he should be continued beyond the age of 50 years. This power of the Board cannot be and is not disputed, and is therefore kept open.

4. On the facts and in the circumstances of the case, therefore, since Annexure-B cannot be sustained, it is accordingly quashed and set aside.

5. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

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